

UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF NEW YORK

Document #

173

LINDNER

-v-

INTERNATIONAL BUSINESS MACHINES
CORPORATION, et al

U.S.C.A. #

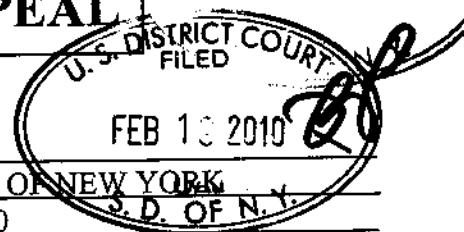
U.S.D.C. # 06 - cv - 4751

JUDGE : Richard J. Sullivan

DATE : February 19, 2010

INDEX TO THE RECORD ON APPEAL

PREPARED BY (NAME) : THOMAS R. PISARCZYK
FIRM : U.S. DISTRICT COURT - SOUTHERN DISTRICT OF NEW YORK
ADDRESS : 500 PEARL STREET, ROOM 370
NEW YORK, NEW YORK 10007
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DISTRICT COURT DOCKET ENTRIES

DOCUMENT DESCRIPTION

DOC. #

CLERK'S CERTIFICATE

SEE ATTACHED LIST OF NUMBERED DOCUMENTS

** ONLY CIRCLED DOCUMENTS ARE INCLUDED **

** ALL OTHERS MISSING AT THIS TIME **

Balance of file already in USCA under previous Appeal

(☒) ORIGINAL RECORD

The record in the above entitled case was indexed to the U.S.C.A.
for the Second Circuit on the 19TH Day of February, 2010

UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF NEW YORK

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-v-

INTERNATIONAL BUSINESS MACHINES
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U.S.C.A. # _____

U.S.D.C. # 06 - cv - 4751JUDGE : Richard J. SullivanDATE : February 19, 2010

CLERK'S CERTIFICATE

I, J. Michael McMahon, Clerk of the Court of the United States District Court for the Southern District of New York, do hereby certify that the certified copy of the docket entries and the original filed papers numbered 1 through , inclusive, constitutes the Original Record On Appeal in the above entitled proceedings except for the following missing documents:

Date FiledDocument Description

CLERK'S CERTIFICATE

SEE ATTACHED LIST OF NUMBERED DOCUMENTS

**** ONLY CIRCLED DOCUMENTS ARE INCLUDED ******** ALL OTHERS MISSING AT THIS TIME ****

Balance of File Already in USCA under previous Appeal

In Testimony Whereof, I have caused the seal of said Court to be hereunto affixed, at the City of New York, this 19TH Day of February, In this year of our Lord, Two Thousand and Ten, and the Independence of the United States this 234TH year.

J. Michael McMahon, Clerk

By _____

Deputy Clerk

APPEAL, CLOSED

U.S. District Court
United States District Court for the Southern District of New York (Foley Square)
CIVIL DOCKET FOR CASE #: 1:06-cv-04751-RJS

Lindner v. International Business Machines Corporation et al
Assigned to: Judge Richard J. Sullivan
Case in other court: State Court-Supreme, 06-0105945
Cause: 42:2000e Job Discrimination (Employment)

Date Filed: 06/20/2006
Date Terminated: 01/29/2010
Jury Demand: None
Nature of Suit: 190 Contract: Other
Jurisdiction: Federal Question

| Date Filed | # | Docket Text |
|------------|----|---|
| 06/20/2006 | 1 | NOTICE OF REMOVAL from Supreme, County of New York. Case Number: 06-0105945. (Filing Fee \$ 350.00, Receipt Number 582714). Document filed by International Business Machines Corporation. (jeh,) (Entered: 06/22/2006) |
| 06/20/2006 | | Case Designated ECF. (jeh,) (Entered: 06/22/2006) |
| 06/20/2006 | | Magistrate Judge Douglas F. Eaton is so designated. (jeh,) (Entered: 06/22/2006) |
| 06/20/2006 | 2 | RULE 7.1 DISCLOSURE STATEMENT. Document filed by International Business Machines Corporation. (jeh,) (Entered: 06/22/2006) |
| 06/20/2006 | | Case No Longer Designated ECF. (rag,) (Entered: 06/23/2006) |
| 06/26/2006 | 3 | ANSWER to Complaint. Document filed by International Business Machines Corporation. (laq,) (Entered: 06/27/2006) |
| 11/07/2006 | 4 | ORDER REFERRING CASE TO MAGISTRATE JUDGE. Order that case be referred to the Clerk of Court for assignment to a Magistrate Judge for General Pretrial. Referred to Magistrate Judge Douglas F. Eaton. (Signed by Judge Kenneth M. Karas on 11/7/06) (db,) (Entered: 11/13/2006) |
| 11/20/2006 | 5 | ORDER: regarding the rules and procedures of Magistrate Judge Douglas F. Eaton (who has been referred to this case) to be followed that shall govern the handling of this case. (Signed by Judge Douglas F. Eaton on 11/17/06) Copies Mailed by Chambers. (db,) (Entered: 11/21/2006) |
| 12/04/2006 | 6 | MOTION for Dana L. Glick to Appear Pro Hac Vice. Document filed by International Business Machines Corporation. (jco,) (Entered: 12/07/2006) |
| 12/13/2006 | 7 | DISCOVERY PLAN AND ORDER: initial Rule 26(a)(1) disclosures due 12/23/06; depositions set for 2/12/06 and thereafter; all discovery due 7/20/07; any dispositive motions served by 8/20/07; and the joint pre-trial order must be filed by 9/30/07. (Signed by Judge Douglas F. Eaton on 12/13/06) (db,) (Entered: 12/14/2006) |
| 12/13/2006 | | Set/Reset Deadlines: Deposition due by 2/26/2007. Discovery due by 7/20/2007. Motions due by 8/20/2007. Pretrial Order due by 9/30/2007. Rule 26(a)(1) initial disclosures due by 12/23/2006. (db,) (Entered: 12/14/2006) |
| 12/13/2006 | | Minute Entry for proceedings held before Judge Douglas F. Eaton: Case Management Conference held on 12/13/2006. Remark: The Court signed a proposed scheduling Order. See Order signed on 12/13/06 by Judge Eaton. (jco,) (Entered: 12/18/2006) |
| 01/04/2007 | | CASHIERS OFFICE REMARK on 6 Motion to Appear Pro Hac Vice in the amount of \$25.00, paid on 12/04/2006, Receipt Number 598503. (gm,) (Entered: 01/04/2007) |
| 01/16/2007 | 8 | Defendant International Business Machines Corp.'s Automatic Disclosures. Document filed by International Business Machines Corporation. (jmi) (Entered: 01/18/2007) |
| 01/18/2007 | 9 | MEMORANDUM AND ORDER: Mr. Linder's request to postpone the deadlines in my discovery plan and order dated 12/13/2006 is denied. The parties are directed to follow the joint-letter requirement in my standing order for discovery disputes. (Signed by Judge Douglas F. Eaton on 1/17/07) (kco) (Entered: 01/19/2007) |
| 02/14/2007 | 11 | Plaintiff Peter W. Lindner's Automatic Disclosures Document filed by Peter W. Lindner. (dle) (Entered: 02/26/2007) |
| 02/19/2007 | 10 | ORDER granting 6 Motion for Dana L. Glick to Appear Pro Hac Vice. (Signed by Judge Kenneth M. Karas on 12/12/06) (jco) (Entered: 02/21/2007) |
| 04/18/2007 | 12 | MEMORANDUM AND ORDER. I hereby direct plntf to serve, no later than 4/30/07, complete responses to the document requests and interrogatories dated 12/22/06. Furthermore, I direct plntf to appear at defense counsel's office for up to 7 hours of deposition commencing at 10:00 am on 5/18/07, and as further set forth in this document. (Signed by Judge Douglas F. Eaton on 4/18/07) copies sent by chambers(cd) (Entered: 04/19/2007) |
| 05/21/2007 | 13 | MEMORANDUM AND ORDER: I direct plaintiff to serve, by 4/30/07, complete responses to the document requests and interrogatories dated 12/22/06. I direct plaintiff to appear at defense counsels office for up to seven hours of deposition commencing at 10:00 a.m. on 5/18/07. I direct plaintiff to send me, by 5/31/07, a full statement of his reasons why I should not recommend to Judge Kenneth M. Karas that plaintiffs lawsuit be dismissed pursuant to FRCP 41(b). (Signed by Judge Douglas F. Eaton on 5/17/07) Copies Mailed by Chambers.(db) (Entered: 05/22/2007) |
| 06/05/2007 | 14 | MOTION for an Order, for Reconsideration and Reply to Judges Memorandum and Order, attached. Document filed by Peter W. Lindner. Return Date set for 6/6/2007 04:00 PM. (tro) (Entered: 06/07/2007) |
| 06/07/2007 | 15 | REPORT AND RECOMMENDATIONS. I recommend to Judge Karas that plntf's lawsuit be dismissed purs to Rule 41(b) of the FRCP, for failure to prosecute the lawsuit in a timely fashion, and for failure to comply with court orders, namely my Memorandum and Order dated 4/18/07 and my Memorandum and Order dated 5/17/07. Objections to R&R due by 6/25/2007 (Signed by Judge Douglas F. Eaton on 6/6/07) copies sent by chambers.(cd) (Entered: 06/07/2007) |
| 06/12/2007 | 16 | MEMORANDUM AND ORDER granting 14 Motion for Reconsideration; I have reconsidered the 5/17/07 order and the 6/6/07 order but for the reasons set forth herein, I adhere to my report and recommendation dated 6/6/07. (Signed by Judge Douglas F. Eaton on 6/11/07) Copies mailed by chambers.(dle) (Entered: 06/18/2007) |
| 06/25/2007 | 17 | RESPONSE in Opposition re: 14 MOTION for Reconsideration. Document filed by International Business Machines Corporation. (dle) (Entered: 07/06/2007) |
| 07/23/2007 | 18 | MOTION for Extension of Time to File objections to the Report and Recommendations of the Magistrate Judge. Document filed by Peter W. Lindner. Return Date set for 7/23/2007 at 04:00 PM. (jar) (Entered: 07/30/2007) |
| 08/07/2007 | 19 | OBJECTION to 15 Report and Recommendations Document filed by Peter W. Lindner. (rw) (Entered: 08/09/2007) |

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| 08/13/2007 | 20 | MEMORANDUM ENDORSEMENT (COURTESY COPY 18 MOTION) granting 18 Motion for Extension of Time to File objections to Report and Recommendation. Application GRANTED. Plaintiff has until 9/1/07 to file his objections to the Report and Recommendation. Defendants may respond by 9/15/07. (Signed by Judge Kenneth M. Karas on 8/6/07) (db) (Entered: 08/13/2007) |
| 08/13/2007 | | Set/Reset Deadlines as to Objections to R&R due by 9/1/2007 (db) (Entered: 08/13/2007) |
| 08/31/2007 | 21 | OBJECTION to 15 Report and Recommendations of Mag. Jude Eaton Dated June 6, 2007. Document filed by Peter W. Lindner. (djc) (Entered: 09/05/2007) |
| 09/04/2007 | 22 | NOTICE OF CASE REASSIGNMENT to Judge Richard J. Sullivan. Judge Kenneth M. Karas is no longer assigned to the case. (jmi) (Entered: 09/11/2007) |
| 09/04/2007 | | Mailed notice to the attorney(s) of record. (jmi) (Entered: 09/11/2007) |
| 09/10/2007 | 23 | LETTER addressed to Judge Kenneth M. Karas from Peter W. Lindner dated 8/31/07 re: pro se plaintiff requests that the court order IBM to appear for deposition and plaintiff's new address 1 Irving Place, #G23C, New York, New York 10003. Document filed by Peter W. Lindner. (dle) (Entered: 09/11/2007) |
| 09/11/2007 | 24 | RESPONSE to Plaintiff's Objections to Magistrate Judge Eaton's Report and Recommendation to Judge Karas. Document filed by International Business Machines Corporation. (djc) (Entered: 09/13/2007) |
| 09/11/2007 | 25 | AFFIDAVIT of Kevin G. Lauri, Esq. in Support re: 24 Response. Document filed by International Business Machines Corporation. (djc) (Entered: 09/13/2007) |
| 10/17/2007 | 27 | ORDER DECLINING REPORT AND RECOMMENDATIONS for 15 Report and Recommendations. For the foregoing reasons, the Court DECLINES to adopt the Recommendation. This action is once again REFERRED to Judge Eaton for general pre-trial purposes, and for the consideration of sanctions less severe than dismissal that may be used to address the instance of noncompliance by plaintiff discussed supra. In addition, the Court cautions plaintiff that, if he continues to disregard discovery orders or other orders of the Court, he may be subject to any of the remedial measures available to this Court, including monetary fines and/or dismissal of this action. (Signed by Judge Richard J. Sullivan on 10/10/2007) (jar) (Entered: 10/18/2007) |
| 10/18/2007 | 26 | MEMORANDUM AND ORDER After reviewing Judge Sullivan's order dated October 10, 2007, I hereby issue the following directives: I direct defense counsel to fax me a copy of the response they made to plaintiff's August 7 objections. I direct Mr. Linder to serve, by October 29, 2007 a courtesy copy to me, complete responses to the document requests interrogatories dated December 22, 2006, as modified by my order dated April 18, 2007, including an update as to any answers that need change, correction, or addition. I remind Mr. Lindner that April 18 order ruled that he "has waived any objections that he may have to the document requests and interrogatories dated December 22, 2006." All discovery is stayed pending further order of this Court. Responses due by 11/26/2007 (Signed by Judge Douglas F. Eaton on 10/18/2007) Copies Mailed By Chambers (jmi) Modified on 10/18/2007 (Miles, Janeen). (Entered: 10/18/2007) |
| 10/26/2007 | 28 | MEMORANDUM AND ORDER: I extend my deadline from November 7 to November 16, 2007 for defense counsel to serve and file the three items set forth in paragraph 3 of my October 18 order. I extend my deadline from November 26 to November 30, 2007, for Mr. Lindner to serve and file a response to defense counsel's proposals about sanctions. (Signed by Judge Douglas F. Eaton on 10/26/07) (js) (Entered: 10/26/2007) |
| 10/29/2007 | 29 | MOTION Disagreeing with Magistrate Judge's Order, Requesting a Stay of His Order, and an Extension of Time, and Compel Defendant's Discovery to Begin. Document filed by Peter W. Lindner. (jar) (Entered: 11/05/2007) |
| 10/30/2007 | 30 | MOTION for Recusal of Magistrate Judge Eaton. Document filed by Peter W. Lindner. (jar) (Entered: 11/05/2007) |
| 11/02/2007 | 31 | PLAINTIFF'S EMERGENCY MOTION TO IMMEDIATELY STAY AND TO APPEAL MAGISTRATE JUDGE'S ORDER AND MOTION OF 10/26/07. Document filed by Peter W. Lindner. (dle) (Entered: 11/06/2007) |
| 11/05/2007 | 32 | MOTION to Magistrate Judge to reconsider plaintiff's motion to recuse. Document filed by Peter W. Lindner. (dle) (Entered: 11/09/2007) |
| 11/08/2007 | 35 | LETTER addressed to Judge Richard J. Sullivan from Kevin G. Lauri dated 11/5/07 re: Defendant IBM Corp. opposes Plaintiff's motion and finds it to be baseless to have Magistrate Judge Eaton removed from this case. Document filed by International Business Machines Corporation. (ae) (Entered: 11/19/2007) |
| 11/09/2007 | 33 | ORDER; denying 30 Motion for Recusal. Lindner is directed to proceed with discovery in accord with Judge Eaton's order. (Signed by Judge Richard J. Sullivan on 11/2/07) (pl) (Entered: 11/13/2007) |
| 11/14/2007 | 34 | MOTION to Compel. Document filed by Peter W. Lindner. (djc) (Entered: 11/19/2007) |
| 11/16/2007 | 36 | Defendant International Business Machines Corporation's Proposal for Sanctions. Response to the court's request for (a) a proposal for monetary sanctions (or other sanctions short of dismissal) for Plaintiff's noncompliance with the court's April 18 Order; (b) a list of specific allegations as to any other noncompliance with the court's orders noting whether the noncompliance has continued beyond October 31, 2007 and (c) a proposal for any sanctions addressed solely to the alleged noncompliance listed in item (b). Document filed by International Business Machines Corporation. (djc) (Entered: 11/21/2007) |
| 11/29/2007 | 45 | OPPOSITION/RESPONSE to Defendant's Motion to dismiss. Document filed by Peter W. Lindner. (djc) (Entered: 01/28/2008) |
| 11/30/2007 | 37 | ORDER: Pre-Motion Conference set for 12/18/2007 at 04:00 PM in Courtroom 21C, 500 Pearl Street, New York, NY 10007 before Judge Richard J. Sullivan. Pro Se plaintiff shall submit a letter, not to exceed three (3) pages, by Monday, 12/10/07, explaining why plaintiff anticipates defendant's proposed motion will fail. (Signed by Judge Richard J. Sullivan on 11/28/07) Copies Mailed By Chambers. (tro) (Entered: 12/03/2007) |
| 11/30/2007 | 38 | MEMORANDUM OF LAW in Opposition re: 36 Defendant International Business Machines Corporation's Proposal for Sanctions. Document filed by Peter W. Lindner. Received in night deposit box on 11/30/07 at 5:59 p.m. (db) (Entered: 12/05/2007) |
| 12/07/2007 | 40 | NOTICE OF APPEARANCE by Kenneth Warren Richardson on behalf of Peter W. Lindner (djc) (Entered: 12/11/2007) |
| 12/10/2007 | 39 | NOTICE OF APPEARANCE by Kenneth Warren Richardson on behalf of Peter W. Lindner (Richardson, Kenneth) (Entered: 12/10/2007) |
| 12/11/2007 | 41 | ORDER DESIGNATING THIS ACTION AS AN E.C.F. CASE: due to the fact that Counsel has now entered and filed a notice of appearance for the plaintiff in this case and that the plaintiff is no longer proceeding pro se, it is ordered that this action be designated an ECF case. (Signed by Judge Richard J. Sullivan on 12/11/07) (kco) (Entered: 12/12/2007) |
| 12/11/2007 | | Case Designated ECF. (kco) (Entered: 12/12/2007) |
| 12/11/2007 | 42 | ENDORSED LETTER addressed to Judge Richard J. Sullivan from Kenneth W. Richardson dated 12/6/07 re: a request for an adjournment of the date to submit the pre-motion letter currently due 12/10/07 and also for an adjournment of the conference set for 12/18/07. ENDORSEMENT: Counsel's request is granted. Plaintiff's pre-motion letter shall be submitted by 1/7/2008. A pre-motion conference will be held on 1/16/2008 at 4:30 PM. SO ORDERED (Signed by Judge Richard J. Sullivan on 12/11/07) (kco) (Entered: 12/12/2007) |

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| 01/06/2008 | <u>43</u> | FILING ERROR - ELECTRONIC FILING FOR NON-ECF DOCUMENT - PRE-CONFERENCE STATEMENT(LETTER). Document filed by Peter W. Lindner (Richardson, Kenneth) Modified on 1/7/2008 (KA). (Entered: 01/06/2008) |
| 01/07/2008 | | ***NOTE TO ATTORNEY THAT THE ATTEMPTED FILING OF Document No. 43 HAS BEEN REJECTED. Note to Attorney Kenneth Warren Richardson: THE CLERK'S OFFICE DOES NOT ACCEPT LETTERS FOR FILING, either through ECF or otherwise, except where the judge has ordered that a particular letter be docketed. Letters may be sent directly to a judge. (KA) (Entered: 01/07/2008) |
| 01/22/2008 | <u>44</u> | ORDER: Plaintiff shall file an amended complaint by 1/30/08. Defendants shall submit, by 2/13/08, an answer to the amended complaint, or a pre-motion letter, not to exceed three pages, setting forth the basis for their proposed motion to dismiss the amended complaint. In the event that defendants submit a pre-motion letter, plaintiff shall submit, within three days of service of defendants' letter, a response letter, not to exceed three pages, explaining why plaintiff anticipates defendants' motion is likely to fail. Thereafter, the Court will schedule an initial conference and/or set a briefing schedule for defendants' proposed motion to dismiss. (Amended Pleadings due by 1/30/2008.) (Signed by Judge Richard J. Sullivan on 1/17/08) (tro) (Entered: 01/23/2008) |
| 02/20/2008 | <u>46</u> | ORDER: The parties shall appear for a Pre-Motion Conference set for 3/6/2008 at 03:00 PM in Courtroom 21C, 500 Pearl Street, New York, NY 10007 before Judge Richard J. Sullivan. Plaintiff shall submit a letter by 2/29/08, regarding his intention to withdraw the motions docketed as document numbers 29, 31, 32, and 34, given that many of the issues raised in those motions- regarding, inter alia, plaintiff's requests to extend the time for plaintiff to comply with certain discovery orders, to stay of such orders, and to rescue the magistrate judge presiding over this action - appear to be moot. (Signed by Judge Richard J. Sullivan on 2/19/08) (tro) (Entered: 02/20/2008) |
| 03/03/2008 | <u>47</u> | ENDORSED LETTER addressed to Judge Richard J. Sullivan from Kenneth W. Richardson dated 2/29/08 re: Counsel writes to inform the Court that plaintiff's motions numbered 29, 31, 32 and 34 should be withdrawn and herein does in fact withdraw said motions. ENDORSEMENT: So Ordered. The Clerk of the Court shall terminate the motions docketed as numbers 29, 31, 32, and 34. Motions terminated: 29 MOTION to Stay re: 28 Order. MOTION for Extension of Time. MOTION to Compel filed by Peter W. Lindner, 34 MOTION to Compel filed by Peter W. Lindner, 32 MOTION for Reconsideration filed by Peter W. Lindner, 31 MOTION to Stay filed by Peter W. Lindner. (Signed by Judge Richard J. Sullivan on 3/3/08) (jco) (Entered: 03/03/2008) |
| 03/07/2008 | <u>48</u> | ORDER at the conference held before the Court on March 6, 2008, the Court adopted the following briefing schedule for defendants' proposed motion pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure: Amended Pleading due by 3/13/2008, Motions due by 4/4/2008, Responses due by 4/28/2008, Replies due by 5/5/2008, Oral Argument set for 5/28/2008 at 04:30 PM in Courtroom 21C, 500 Pearl Street, New York, NY 10007 before Judge Richard J. Sullivan. SO ORDERED. (Signed by Judge Richard J. Sullivan on 3/6/2008) (jmi) Modified on 3/13/2008 (jmi). (Entered: 03/10/2008) |
| 03/13/2008 | <u>49</u> | AMENDED COMPLAINT against John Doe, International Business Machines Corporation, Robert Vanderheyden, Heather Christo Higgins, John Doe. Document filed by Peter W. Lindner.(dle) (Entered: 03/14/2008) |
| 03/20/2008 | <u>50</u> | ENDORSED LETTER addressed to Judge Richard J. Sullivan from Kevin G. Lauri dated 3/18/08 re: Counsel for defendant request that the Order be amended to reflect the April 14, 2008 due date for Defendant's motion to dismiss. ENDORSEMENT: So Ordered. (Signed by Judge Richard J. Sullivan on 3/19/08) (js) (Entered: 03/20/2008) |
| 04/14/2008 | <u>51</u> | MOTION to Dismiss Defendant's Notice of Motion to Dismiss Plaintiff's Complaint. Document filed by International Business Machines Corporation. (Lauri, Kevin) (Entered: 04/14/2008) |
| 04/15/2008 | <u>52</u> | MEMORANDUM OF LAW in Support re: <u>51</u> MOTION to Dismiss Defendant's Notice of Motion to Dismiss Plaintiff's Complaint.. Document filed by International Business Machines Corporation. (Lauri, Kevin) (Entered: 04/15/2008) |
| 04/15/2008 | <u>53</u> | AFFIDAVIT of Kevin G. Lauri, Esq. in Support re: <u>51</u> MOTION to Dismiss Defendant's Notice of Motion to Dismiss Plaintiff's Complaint.. Document filed by International Business Machines Corporation. (Attachments: # <u>1</u> Exhibit F-Part 1, # <u>2</u> Exhibit F-Part 2, # <u>3</u> Exhibit F-Part 3)(Lauri, Kevin) (Entered: 04/15/2008) |
| 04/28/2008 | <u>54</u> | ORDER: Plaintiff's request is GRANTED. The parties shall abide by the following revised briefing schedule: plaintiff shall submit his opposition by May 5, 2008; defendants shall submit their reply by May 12, 2008. Set Deadlines/Hearing as to <u>51</u> MOTION to Dismiss Defendant's Notice of Motion to Dismiss Plaintiff's Complaint.: (Responses due by 5/5/2008, Replies due by 5/12/2008.) (Signed by Judge Richard J. Sullivan on 4/28/08) (tro) (Entered: 04/29/2008) |
| 05/05/2008 | <u>55</u> | MEMORANDUM OF LAW in Opposition re: <u>51</u> MOTION to Dismiss Defendant's Notice of Motion to Dismiss Plaintiff's Complaint.. Document filed by Peter W. Lindner. (Richardson, Kenneth) (Entered: 05/05/2008) |
| 05/05/2008 | <u>56</u> | DECLARATION of Kenneth W. Richardson in Opposition re: <u>51</u> MOTION to Dismiss Defendant's Notice of Motion to Dismiss Plaintiff's Complaint.. Document filed by Peter W. Lindner. (Attachments: # <u>1</u> Exhibit, # <u>2</u> Exhibit, # <u>3</u> Exhibit)(Richardson, Kenneth) (Entered: 05/05/2008) |
| 05/12/2008 | <u>57</u> | REPLY MEMORANDUM OF LAW in Support re: <u>51</u> MOTION to Dismiss Defendant's Notice of Motion to Dismiss Plaintiff's Complaint.. Document filed by International Business Machines Corporation. (Lauri, Kevin) (Entered: 05/12/2008) |
| 05/28/2008 | | Minute Entry for proceedings held before Judge Richard J. Sullivan: Motion Hearing held on 5/28/2008 re: <u>51</u> MOTION to Dismiss Defendant's Notice of Motion to Dismiss Plaintiff's Complaint. filed by International Business Machines Corporation. DECISION RESERVED. (pl) (Entered: 06/06/2008) |
| 06/18/2008 | <u>58</u> | MEMORANDUM AND ORDER, that for the foregoing reasons, plaintiffs' claims against defendants Higgins and Vanderheyden are dismissed without prejudice pursuant to Rule 4(m). Granting in part and denying in part <u>51</u> Motion to Dismiss, as further set forth in this document. Plaintiff shall a second amended complaint within 30 days of the date of this decision, as further set forth in this document. (Signed by Judge Richard J. Sullivan on 6/18/08) (cd) (Entered: 06/18/2008) |
| 07/15/2008 | <u>59</u> | SECOND AMENDED COMPLAINT amending <u>49</u> Amended Complaint against Robert Vanderheyden, Heather Christo Higgins, International Business Machines Corporation Document filed by Peter W. Lindner. Related document: <u>49</u> Amended Complaint filed by Peter W. Lindner.(jmi) (Entered: 07/18/2008) |
| 07/15/2008 | | SUMMONS ISSUED as to International Business Machines Corporation. (jmi) (Entered: 07/18/2008) |
| 07/15/2008 | | SUMMONS ISSUED as to International Business Machines Corporation, Robert Vanderheyden, Heather Christo Higgins. (jmi) (Entered: 07/18/2008) |
| 08/04/2008 | <u>60</u> | STIPULATION EXTENDING TIME TO ANSWER, MOVE OR OTHERWISE RESPOND; that defendant International Business Machines Corporation time to answer, move or otherwise respond to the Second Amended Complaint in this action is extended up to and including 8/22/2008. (Signed by Judge Richard J. Sullivan on 8/1/08) (pl) (Entered: 08/04/2008) |
| 08/22/2008 | <u>61</u> | ANSWER to Amended Complaint. Document filed by International Business Machines Corporation. Related document: <u>59</u> Amended Complaint, filed by Peter W. Lindner.(Lauri, Kevin) (Entered: 08/22/2008) |
| 08/22/2008 | <u>62</u> | ORDER: It is hereby Ordered that plaintiff's time to serve the second amended complaint is extended to September 15, 2008. (Signed by Judge Richard J. Sullivan on 8/22/2008) (jfe) (Entered: 08/25/2008) |
| 10/02/2008 | <u>63</u> | ENDORSED LETTER addressed to Judge Richard J. Sullivan from Kevin G. Lauri dated 9/22/08 re: Counsel requests that the deadline for the individual defendants to file their answers to the complaint be set for October 15, 2008, and that the court scheduled a conference for the purpose of |

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| | | setting a discovery schedule. ENDORSEMENT: Defendants time in which to answer the complaint is extended to Oct. 15, 2008. The parties shall appear for a status conference on October 20, 2008 at 9AM. (Signed by Judge Richard J. Sullivan on 9/23/08) (mme) (Entered: 10/02/2008) |
| 10/15/2008 | <u>64</u> | ANSWER to Amended Complaint. Document filed by Heather Christo Higgins. Related document: <u>59</u> Amended Complaint, filed by Peter W. Lindner. (Lauri, Kevin) (Entered: 10/15/2008) |
| 10/15/2008 | <u>65</u> | ANSWER to Amended Complaint. Document filed by Robert Vanderheyden. Related document: <u>59</u> Amended Complaint, filed by Peter W. Lindner. (Lauri, Kevin) (Entered: 10/15/2008) |
| 10/17/2008 | <u>66</u> | ENDORSED LETTER addressed to Judge Richard J. Sullivan from Kevin G. Lauri dated 10/14/08 re: Counsel for Defendants request an adjournment of the Conference currently scheduled for 10/20/08 due to scheduling conflicts. ENDORSEMENT: Conference adjourned to November 3, 2008 @ 9AM. (Signed by Judge Richard J. Sullivan on 10/16/08) (tro) (Entered: 10/17/2008) |
| 11/03/2008 | | Minute Entry for proceedings held before Judge Richard J. Sullivan: Status Conference held on 11/3/2008. Parties present, conference held. Joint case management plan to be submitted to the court for approval by November 7. (mro) (Entered: 11/17/2008) |
| 11/12/2008 | <u>67</u> | CASE MANAGEMENT PLAN AND SCHEDULING ORDER: All parties do not consent to disposition of this case by a Magistrate Judge, pursuant to 28 U.S.C. 636(c). This case is to be tried by a jury. All fact discovery due by 3/16/09. Deposition due by 3/1/2009. All Discovery due by 6/15/2009. Pre-motion letters due June 22; Response due June 25. Referral to a Magistrate Judge for settlement discussions. Best estimate of the length of trial is 4 days. Post-Discovery Status Conference set for 7/9/2009 at 09:30 AM before Judge Richard J. Sullivan. (Signed by Judge Richard J. Sullivan on 11/11/08) (tro) (Entered: 11/13/2008) |
| 12/01/2008 | <u>68</u> | ORDER REFERRING CASE TO MAGISTRATE JUDGE. Order that case be referred to the Clerk of Court for assignment to a Magistrate Judge for Settlement. Referred to Magistrate Judge Douglas F. Eaton. (Signed by Judge Richard J. Sullivan on 12/1/2008) (jmi) (Entered: 12/02/2008) |
| 01/29/2009 | <u>69</u> | ENDORSED LETTER addressed to Judge Richard J. Sullivan from Kevin G. Lauri dated 1/27/09 re: Counsel for Defendants request that all discovery, fact and expert, be ordered to be completed by 6/15/09. ENDORSEMENT: Request granted. (Signed by Judge Richard J. Sullivan on 1/28/09) (tro) (Entered: 01/29/2009) |
| 04/23/2009 | <u>70</u> | AMENDED REFERRING ORDER. Order that case be referred to the Clerk of Court for assignment to a Magistrate Judge for Specific Non-Dispositive Motion/Dispute: Settlement. Referred to Magistrate Judge Douglas F. Eaton. (Signed by Judge Richard J. Sullivan on 4/23/09) (pl) Modified on 4/23/2009 (pl). (Entered: 04/23/2009) |
| 05/04/2009 | <u>71</u> | ORDER REFERRING CASE TO MAGISTRATE JUDGE. Order that case be referred to the Clerk of Court for assignment to a Magistrate Judge for General pretrial (includes scheduling, discovery, non-dispositive pretrial motions, and settlement. Referred to Magistrate Judge Douglas F. Eaton. (Signed by Judge Richard J. Sullivan on 5/4/2009) (jpo) (Entered: 05/04/2009) |
| 05/19/2009 | <u>72</u> | FILING ERROR - DEFICIENT DOCKET ENTRY - MOTION to Withdraw by attorney for plaintiff.. Document filed by Peter W. Lindner. Return Date set for 6/3/2009 at 09:30 AM. (Attachments: # <u>1</u> Exhibit email advising plaintiff of attorney's intention to withdraw, # <u>2</u> Exhibit Instructions to process server, # <u>3</u> Exhibit email to plaintiff attaching a copy of this motion)(Richardson, Kenneth) Modified on 5/21/2009 (jar). (Entered: 05/19/2009) |
| 05/19/2009 | | ***NOTE TO ATTORNEY TO RE-FILE DOCUMENT - DEFICIENT DOCKET ENTRY ERROR. Note to Attorney Kenneth Richardson to RE-FILE Document <u>72</u> MOTION to Withdraw by attorney for plaintiff. ERROR(S): Supporting documents must be filed individually. Use the event type(s) Affirmation in Support found under event list Replies, Oppositions, Supporting Documents. NOTE: The motion must first be correctly re-filed. (jar) (Entered: 05/21/2009) |
| 05/21/2009 | <u>73</u> | MOTION for Kenneth W. Richardson to Withdraw as Attorney for plaintiff. Document filed by Peter W. Lindner. Return Date set for 6/3/2009 at 09:30 AM. (Attachments: # <u>1</u> Exhibit Exhibit A, # <u>2</u> Exhibit Exhibit B, # <u>3</u> Exhibit Exhibit C)(Richardson, Kenneth) (Entered: 05/21/2009) |
| 05/21/2009 | <u>74</u> | AFFIRMATION of Kenneth W. Richardson in Support re: <u>73</u> MOTION for Kenneth W. Richardson to Withdraw as Attorney for plaintiff.. Document filed by Peter W. Lindner. (Richardson, Kenneth) (Entered: 05/21/2009) |
| 05/21/2009 | <u>75</u> | AFFIDAVIT OF SERVICE of Motion to Withdraw served on Peter Lindner on May 15, 2009. Service was accepted by Peter Lindner. Document filed by Peter W. Lindner. (Richardson, Kenneth) (Entered: 05/21/2009) |
| 05/29/2009 | <u>76</u> | ORDER granting <u>73</u> Motion to Withdraw as Attorney. Attorney Kenneth Warren Richardson terminated. I hereby rule on Mr. Richardson's motion (Document #73) as follows. Effective at noon on May 29, 2009, Mr. Richardson is relieved as counsel for Plaintiff. Plaintiff is once again proceeding pro se, and this case is once again a non-ECF case. I have every confidence that Mr. Richardson will honor his agreements with Plaintiff about turning over his files and making payments to refund some of his retainer. If, in the future, Plaintiff alleges that any aspect of those agreements has not been fulfilled, then he may write to me, as I retain jurisdiction to rule on such allegations. I will note that one agreement alleged by Plaintiff - - "That Mr. Richardson [will] put all of the details into one document (currently there are several)" sounds fatally vague to me, but perhaps Mr. Richardson understands what is meant. I am willing to hold a settlement conference, but keep in mind that there will be only one. I enclose a copy of my Standing Order for Settlement Conference. Please note that it requires each side to fax me a confidential letter the week before my settlement conference; this letter must not exceed five pages and must not be served on your adversary. I believe that a settlement conference would probably be a waste of time until I rule on the disputed discovery demands and until Plaintiff receives whatever documents I may happen to order Defendants to produce. However, if both sides request me to hold the settlement conference prior to such production, then I would grant that request. I would be able to schedule the conference for one of a number of different days during June 29 to July 10, or July 21 to 24, or August 3 to 6. Absent written agreement to the contrary, I direct Defendants to fax me, by June 5, 2009, their response to the 4/17/09 letter motion to compel, and I direct Plaintiff to fax me any reply by June 15, 2009. (I will be out of town at the Judicial Conference on June 10, 11 and 12.) If there is any other dispute about discovery or scheduling, I direct Plaintiff and defense counsel to confer with other, attempt to reach a compromise, and then, if necessary, to send me a single joint letter in compliance with my Standing Order for Discovery Disputes. I am faxing a copy of today's Memorandum and Order to Mr. Richardson (along with my Standing Order for Settlement Conference). I direct Mr. Richardson to send Plaintiff a copy as soon as possible by e-mail or fax. The Docket Clerk should note that the motion at Document #73 has been decided. (Signed by Magistrate Judge Douglas F. Eaton on 5/29/2009) Copies Mailed By Chambers.(jmi) (Entered: 05/29/2009) |
| 05/29/2009 | | Set/Reset Deadlines: Replies due by 6/15/2009, Responses due by 6/5/2009 (jmi) (Entered: 05/29/2009) |
| 05/29/2009 | | Case No Longer Designated ECF. (jmi) (Entered: 06/08/2009) |
| 06/16/2009 | <u>77</u> | MEMORANDUM AND ORDER: I hereby rule that it is too late to serve any new requests for discovery, including any subpoenas for discovery purposes. I hereby direct plaintiff to provide defendants, by 6/17/09, with a list of ten business days between 7/8/09 and 7/30/09 when he is available to appear at defense counsel's office for up to seven hours of deposition. I direct the parties to sign and fax to me by 6/19/09 a stipulation stating both the deposition date and a second date to be used in case of emergency. I hereby shorten, to 14 days, the time for plaintiff or any other witness to make any changes or corrections to the transcript of his deposition. I will permit plaintiff to wait until 7/6/09 to fax me his reply to defendants' 6/5/09 response to plaintiff's 4/17/09 letter motion to compel. Judge Sullivan's Scheduling Order dated 11/11/08 remains in full force except as follows: all fact discovery is to be completed no later than 7/31/09. Depositions shall be completed by 7/31/09. All discovery is to be completed no later than 7/31/09. Pre-motion letters regarding dispositive motions, if any, are to be submitted to Judge Sullivan no later than 8/20/09. Responses thereto are to be submitted no later than 8/27/09. I will hold a settlement conference on 8/6/09 at 9:45 a.m. in Courtroom 18A. By 8/3/09 each side must fax me the confidential ex parte letter described in my Standing Order for Settlement Conferences. The post-discovery conference before Judge Sullivan, currently scheduled for 7/9/09 |

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| | | will be rescheduled by him, probably for early September. I direct Mr. Lauri to send plaintiff a copy of today's Memorandum and Order as soon as possible by e-mail or fax. (Signed by Magistrate Judge Douglas F. Eaton on 6/16/09) Copies mailed by chambers.(dle) (Entered: 06/16/2009) |
| 06/16/2009 | <u>78</u> | ORDER: IT IS HEREBY ORDERED that the deadline for submission of pre-motion letters, as well as the conference before the Court presently scheduled July 9, 2009, are adjourned. The parties shall submit a letter within five days of the settlement conference with Judge Eaton, advising the Court of the result of the conference. (Signed by Judge Richard J. Sullivan on 6/15/2009) (jfe) (Entered: 06/16/2009) |
| 06/18/2009 | <u>79</u> | ORDER. No later than August 20, 2009, the parties shall submit their premotion letters, if any, and no later than August 27, 2009, the parties shall submit their responses, if any. (Pre-Motion Conference set for 9/8/2009 at 09:00 AM before Judge Richard J. Sullivan.) (Signed by Judge Richard J. Sullivan on 6/17/09) (dj) (Entered: 06/18/2009) |
| 06/18/2009 | <u>80</u> | MEMORANDUM AND ORDER that I have now reconsidered my Memorandum and Order dated 6/16/09 and I adhere to it. I direct plaintiff to provide defendants, by 6/18/09 with a list of ten business days between 7/8/09 and 7/30/09 when he is available to appear at defense counsel's office for up to seven hours of deposition. I direct the parties to sign and fax to me by 6/19/09, a stipulation stating both the deposition date and a second date to be used in case of emergency. I direct Mr. Lauri to send plaintiff a copy of today's memorandum and order as soon as possible by e-mail. Before ruling on plaintiff's 4/17/09 motion to compel, I will wait to hear more from him on or before 7/6/09. Plaintiff's next submission to me will close the record on that 4/17/09 motion; then at long last it will be ready for decision. I deny plaintiff's request for more time beyond 7/6/09. I also deny plaintiff's request for leave to amend his complaint. If any party fails to comply with my June 16 order or today's order, I may order sanctions, including a recommendation that Judge Sullivan strike the offending party's pleadings. (Signed by Magistrate Judge Douglas F. Eaton on 6/18/09) Copies mailed by chambers.(die) (Entered: 06/18/2009) |
| 06/19/2009 | <u>81</u> | STIPULATION AND ORDER: IT IS HEREBY STIPULATED AND AGREED, by and between the Parties, that Plaintiff will appear at the offices of Jackson Lewis, 59 Maiden Lane, 39th Floor, New York, New York 10038, on July 8, 2009 for his deposition in connect with the above captioned matter. The Parties have agreed that the back-up date for Plaintiff's deposition is July 10, 2009. (Signed by Magistrate Judge Douglas F. Eaton on 6/19/2009) (rw) (Entered: 06/19/2009) |
| 06/19/2009 | <u>82</u> | MEMORANDUM AND ORDER I am sending today's Memorandum and Order to Mr. Lindner by fax to 212-979-9647fax. Nevertheless, to be sure he gets this as soon as possible, I direct Mr. Lauri to send Plaintiff a copy of today's Memorandum and Order as soon as possible by e-mail. If any party fails to comply with my June 16 order or my June 18 order or today's order, I may order sanctions, including a recommendation that Judge Sullivan strike the offending party's pleadings. The parties must obey each of these orders even if there is a pending motion for reconsideration. I direct Mr. Lindner to make no communication to the Defendants or to anyone at the law firm of Jackson Lewis LLP until he has completed giving his deposition testimony, with the following exceptions listed in this order. I direct Mr. Lindner to answer questions at his deposition for up to seven hours with the provisions stated in this order. (Signed by Magistrate Judge Douglas F. Eaton on 6/19/2009) Copies Mailed By Chambers.(jmi) Modified on 6/29/2009 (jmi). (Entered: 06/22/2009) |
| 06/19/2009 | <u>83</u> | MOTION for Reconsideration. Document filed by Peter W. Lindner.(dj) (Entered: 06/23/2009) |
| 06/19/2009 | <u>84</u> | MOTION for Reconsideration. [Received Night Deposit Box June 19, 2009 at 11:52 a.m.] Document filed by Peter W. Lindner.(rw) (Entered: 06/23/2009) |
| 06/23/2009 | <u>85</u> | OBJECTION to 15 Report and Recommendations Document filed by Peter W. Lindner. (pl) (Entered: 06/25/2009) |
| 06/23/2009 | <u>86</u> | MOTION for an order for Sanctions on defendants for violating standing order. Document filed by Peter W. Lindner.(pl) (Entered: 06/25/2009) |
| 06/25/2009 | <u>87</u> | ORDER that Plaintiff's Objections are DENIED, and Magistrate Judge Eaton's orders are AFFIRMED. Plaintiff's requests for miscellaneous relief, including sanctions against Defendants, an Order of Protection against defense counsel, and certain extensions of time, are DENIED in their entirety. Plaintiff's adduced grounds for requesting such relief are entirely without basis in law or in fact. (Signed by Judge Richard J. Sullivan on 6/24/09) (cd) (Entered: 06/25/2009) |
| 06/26/2009 | <u>88</u> | Request for Extension to Magistrate Judge by Plaintiff while getting information and making progress on conferring with defendants. Document filed by Peter W. Lindner.(mbe) (Entered: 06/26/2009) |
| 07/01/2009 | <u>89</u> | AFFIDAVIT of Dana Glick Weisbrod in Support of Defendants' Opposn to Plaintiff's Motion for Sanctions on Defendants for Violating Standing Order, Which Plaintiff Addressed to Magistrate Judge Eaton. Document filed by Heather Christo Higgins, International Business Machines Corporation, Robert Vanderheyden. (dj) (Entered: 07/01/2009) |
| 07/01/2009 | <u>90</u> | OPPOSITION/RESPONSE to Motion re: 86 MOTION for Sanctions on Defendants for Violating Standing order, which plaintiff addressed to Magistrate Judge Eaton. Document filed by International Business Machines Corporation. (dj) (Entered: 07/06/2009) |
| 07/07/2009 | <u>91</u> | MEMORANDUM AND ORDER: I am sending today's memorandum and order to Mr. Lindner by fax to 212-979-9647 fax. Nevertheless, to be sure he gets this as soon as possible, I direct Mr. Lauri to send Plaintiff a copy of today's memorandum and order as soon as possible by e-mail. (Signed by Magistrate Judge Douglas F. Eaton on 7/7/2009) Copies Mailed By Chambers.(jpo) (Entered: 07/07/2009) |
| 07/14/2009 | <u>92</u> | AFFIDAVIT of Peter Lindner for REPLY to re: 90 Response to Motion to Compel. Document filed by Peter W. Lindner. (ae) (Entered: 07/17/2009) |
| 07/14/2009 | <u>93</u> | REPLY to Response to Motion re: 86 MOTION to Compel and Memo of Law against Order of Magistrate Judge of 6/19/09. Document filed by Peter W. Lindner. (ae) (Entered: 07/17/2009) |
| 07/23/2009 | <u>94</u> | LETTER addressed to Douglas F. Eaton from Kenneth W. Richardson dated 4/17/09 re: Plaintiff's 4/17/09 letter motion to compel additional discovery responses. Document filed by Peter W. Lindner.(ae) (Entered: 07/23/2009) |
| 07/23/2009 | <u>95</u> | LETTER addressed to Magistrate Judge Douglas F. Eaton from Kevin G. Lauri dated 6/5/09 re: Defendants' 6/5/09 Response to Plaintiff's 4/17/09 Letter Motion. Document filed by John Doe, Robert Vanderheyden, Heather Christo Higgins, International Business Machines Corporation, John Doe.(ae) (Entered: 07/23/2009) |
| 07/23/2009 | <u>96</u> | MEMORANDUM AND ORDER, regarding Plaintiff's 4/17/09 motion to compel additional discovery responses. I hereby deny the April 17 motion to compel, for the following reasons that are set forth in this Order. I direct the Docket Clerk to make the appropriate changes on the docket sheet to reflect that there are no longer any motions pending in this case. Documents #83 and #84 were ruled on by my June 18 Memorandum and Order (Document #80). Document #86 was ruled on by today's Memorandum and Order. Document #88 was ruled on by my June 16 Memorandum and Order (Document #77, at paragraphs 7, 8, and 12.) The 4/17/09 letter motion, which will be docketed soon, was ruled on by today's Memorandum and Order. I reaffirm all of the deadlines discussed in my June 16 Memorandum and Order at paragraph 113. In particular: By August 3, 2009, each side must fax me the confidential ex parte letter described in my Standing Order for Settlement Conferences (enclosed with my 5/29/09 Memorandum and Order). I direct Mr. Lindner, and a decisionmaker from IBM with settlement authority, and a decisionmaker from any pertinent insurance carrier, to appear before me for the settlement conference in Courtroom 18A on August 6, 2009, at 9:45 a.m. sharp. I do not require personal appearance by the individual defendants, Mr. Vanderheyden and Ms. Higgins. Mr. Lindner told the Pro Se Office that he plans to file a Rule 11 motion. If he does, the defendants need not serve any response until a date to be set by me in the event the settlement conference fails. I am sending today's Memorandum and Order to Mr. Lindner by fax to 212-979-9647 fax. Nevertheless, to be sure he gets this as soon as possible, I direct Mr. Lauri to send Plaintiff a copy of today's Memorandum and Order as soon as possible by e-mail. The parties must obey each of the provisions of today's order even if there is a pending objection or motion for reconsideration. (Signed by Magistrate Judge Douglas F. Eaton on 7/23/09) Copies Mailed By Chambers.(pl) (Entered: 07/23/2009) |

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| 07/23/2009 | | Set/Reset Scheduling Order Deadlines: Settlement Conference set for 8/6/2009 at 09:45 AM in Courtroom 18A, 500 Pearl Street, New York, NY 10007 before Magistrate Judge Douglas F. Eaton. (pl) (Entered: 07/23/2009) |
| 08/03/2009 | 100 | MOTION for Report and Recommendations. (Omnibus Motion for Conference due to Discovery Disagreements with Defendants; Request for Extension to Discovery order by Magistrate Judge) Document filed by Peter W. Lindner.(mbe) (Entered: 08/06/2009) |
| 08/04/2009 | 97 | ORDER: The Court discerns no clear error in the July 23, 2009 Order, and accordingly Plaintiff's objections are denied. Plaintiff's submission also includes a number of additional requests that do not specifically pertain to any written orders issued by Magistrate Judge Eaton. With regard to Plaintiff's request for sanctions for Defendants' alleged violations of this Court's own Individual Practices, the Court notes that Defendants are not required by the Individual Practices to jointly object to Orders of Magistrate Judge Eaton. Accordingly, Plaintiff's request for sanctions pertaining to alleged violations of this Court's Individual Practices is denied. To the extent Plaintiff requests other miscellaneous relief, including the presence of the individual defendants at the settlement conference, those requests are denied. Finally, Plaintiff is directed that all future communications with this Court shall be in written form only. (Signed by Judge Richard J. Sullivan on 8/4/09) (tro) (Entered: 08/04/2009) |
| 08/04/2009 | 99 | MOTION to Seal copy of Letter of 8/3/09. Document filed by Peter W. Lindner.(dj) (Entered: 08/06/2009) |
| 08/05/2009 | 98 | ORDER: The Court is in receipt of Plaintiff's purported "Notice of Appeal" to the Second Circuit Court of Appeals of (1) Magistrate Judge Eaton's July 23, 2009 Order setting a schedule in this matter and (2) denying Plaintiff's request to have the Individual Defendants present at the settlement conference presently scheduled for August 5, 2009, as well as this Court's August 4, 2009 Order affirming the July 23, 2009 Order. Accordingly, both Orders remain in effect, and the parties shall appear for any previously scheduled conferences with this Court or Magistrate Judge Eaton. (Signed by Judge Richard J. Sullivan on 8/5/09) (tro) (Entered: 08/06/2009) |
| 08/06/2009 | 101 | ORDER: Finally, Plaintiff is reminded that, "while pro se litigants may in general deserve more lenient treatment than those represented by counsel, all litigants, including pro ses, have an obligation to comply with court orders. When they flout that obligation they, like all litigants, must suffer the consequences of their actions." Failure to comply with Orders issued by this Court or Magistrate Judge Eaton may result in sanctions under the Federal Rule of Civil Procedure, including dismissal. (Signed by Judge Richard J. Sullivan on 8/6/2009) (jfe) (Entered: 08/06/2009) |
| 08/06/2009 | 104 | NOTICE OF INTERLOCUTORY APPEAL from 96 Order on Motion for Reconsideration, Order on Motion for Sanctions, Order on Motion for Extension of Time, 97 Order. Document filed by Peter W. Lindner. Copies mailed to attorney(s) of record: Jackson Lewis LLP; and, Venable LLP. (tp) (Entered: 08/12/2009) |
| 08/06/2009 | | Appeal Remark as to 104 Notice of Interlocutory Appeal, filed by Peter W. Lindner. \$455.00 APPEAL FEE DUE. (tp) (Entered: 08/12/2009) |
| 08/06/2009 | | Minute Entry for proceedings held before Magistrate Judge Douglas F. Eaton: Settlement Conference held on 8/6/2009. The parties are unable to reach a settlement. Discovery closed on 7/31/09. (mro) (Entered: 08/14/2009) |
| 08/07/2009 | 102 | ORDER that henceforth all communications between the parties shall be via facsimile or US mail only, and all communications from the parties to the Court shall be via e-mail, facsimile, or US mail only. (Signed by Judge Richard J. Sullivan on 8/7/09) (cd) (Entered: 08/10/2009) |
| 08/11/2009 | 103 | ORDER: Because this matter has been referred to Magistrate Judge Eaton for general pre-trial purposes, any discovery-related issues should in the first instance be addressed to him. Based on the docket, it appears that discovery in this matter is closed. SO ORDERED. (Signed by Judge Richard J. Sullivan on 8/10/2009) (tve) (Entered: 08/11/2009) |
| 08/12/2009 | | Transmission of Notice of Appeal and Certified Copy of Docket Sheet to US Court of Appeals re: 104 Notice of Interlocutory Appeal. (tp) (Entered: 08/12/2009) |
| 08/12/2009 | | Transmission of Notice of Appeal to the District Judge re: 104 Notice of Interlocutory Appeal. (tp) (Entered: 08/12/2009) |
| 08/12/2009 | 105 | ORDER denying 100 Motion for Report and Recommendations. The instant motion for sanctions is denied. Further, the Clerk of the Court is respectfully directed to terminate the motion docketed as Doc. No. 100, as the Court's August 4, 2009 Order resolved that motion. SO ORDERED. (Signed by Judge Richard J. Sullivan on 8/11/2009) (tve) (Entered: 08/12/2009) |
| 08/12/2009 | 106 | Appeal Record Sent to USCA (Index). Notice that the Original index to the record on Appeal for 104 Notice of Interlocutory Appeal, filed by Peter W. Lindner 3 Copies of the index, Certified Clerk Certificate and Certified Docket Sheet were transmitted to the U.S. Court of Appeals. (tp) (nd). (Entered: 08/12/2009) |
| 08/12/2009 | | Appeal Record Sent to USCA (File)[2 VOL]. Indexed record on Appeal Files for 104 Notice of Interlocutory Appeal, filed by Peter W. Lindner were transmitted to the U.S. Court of Appeals. (tp) (Entered: 08/12/2009) |
| 08/13/2009 | 107 | MANDATE of USCA (Certified Copy) as to 104 Notice of Interlocutory Appeal, filed by Peter W. Lindner USCA Case Number 09-3343-op. IT IS HEREBY ORDERED that Appellant Peter W. Lindner's motion for a temporary stay of discovery and for scheduling deadlines to be waived in the proceeding in docket no. 06-cv-4751 (RJS)(DFE) in the District Court for the Southern District of New York is DENIED. IT IS FURTHER ORDERED that Appellant's petition for a writ of mandamus is DENIED. Catherine O'Hagan Wolfe, Clerk USCA. Issued As Mandate: 8/10/2009. (nd) (Entered: 08/13/2009) |
| 08/13/2009 | 118 | MOTION for Sanctions. Document filed by Peter W. Lindner.(rw) (Entered: 09/10/2009) |
| 08/14/2009 | 108 | ORDER that the parties' submissions made to Magistrate Judge Eaton in connection with settlement will remain SEALED. SO ORDERED (Signed by Judge Richard J. Sullivan on 8/14/2009) (jmi) (Entered: 08/17/2009) |
| 08/17/2009 | 109 | MOTION to Compel Deposition by named defendants with attached affidavit of July 31, 2009. Document filed by Peter W. Lindner.(mbe) (Entered: 08/20/2009) |
| 08/20/2009 | 159 | MOTION for Summary Judgment in favor of plaintiff and directly move damages. Document filed by Peter W. Lindner.(mbe) (Entered: 11/22/2009) |
| 08/24/2009 | 110 | SEALED DOCUMENT placed in vault.(jri) (Entered: 08/24/2009) |
| 08/24/2009 | 111 | RESPONSE to Motion re: 109 MOTION to Compel Deposition by named defendants. Document filed by John Doe, Robert Vanderheyden, Heather Christo Higgins, International Business Machines Corporation, John Doe. (mbe) (Entered: 08/25/2009) |
| 08/24/2009 | 112 | MOTION for Summary Judgment in favor of plaintiff and directly move for damages. Document filed by Peter W. Lindner.(mbe) (Entered: 08/26/2009) |
| 08/26/2009 | 113 | ORDER that plaintiff is hereby ordered to submit a pre-motion letter to chambers no later than 8/31/09. Plaintiff shall also respond to defendant's 8/20/09 pre-motion letter no later than 8/31/09. Defendant shall respond to plaintiff's pre-motion letter no later than 9/3/09. The Clerk of the Court is respectfully directed to terminate the motion docketed as #112. (Signed by Judge Richard J. Sullivan on 8/26/09) Copies sent by chambers.(dle) (Entered: 08/27/2009) |
| 08/26/2009 | | Set/Reset Deadlines: Responses due by 9/3/2009 (dle) (Entered: 08/27/2009) |
| 08/31/2009 | 114 | ORDER: IT IS HEREBY ORDERED that Plaintiff shall submit (1) a pre-motion letter regarding his proposed motion for summary judgment, and (2) a response to Defendants' pre-motion letter regarding their proposed motion for summary judgment not later than 4:00 p.m. on September 2, 2009. Plaintiff is advised that his continued failure to comply with the orders issued by the Court will result in dismissal of the action for failure to prosecute |

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| | | under Federal Rule of Civil Procedure 41 (b). In light of the extension that the Court has granted Plaintiff to submit his pre-motion letter, IT IS FURTHER ORDERED that Defendants may submit their response to Plaintiffs pre-motion letter not later than 4:00 p.m. on September 7, 2009. (Signed by Judge Richard J. Sullivan on 8/31/2009) Copies E-Mailed By Chambers.(jfe) (Entered: 09/01/2009) |
| 09/01/2009 | 115 | ORDER: Plaintiff is hereby ordered to provide the Court with a full copy of the e-mail at issue, including any original attachments, at which point the Court will consider his request. So Ordered (Signed by Judge Richard J. Sullivan on 9/1/09) (js) (Entered: 09/02/2009) |
| 09/02/2009 | 116 | ORDER: Plaintiff's request that the Court sanction counsel for defendants is DENIED. A copy of Plaintiff's August 20, 2009, pre-motion letter is attached to this order. Plaintiff shall respond by 4 p.m. tomorrow, September 3, 2009. No further extensions will be granted. As Monday, September 7, is a federal holiday, Defendants may respond to Plaintiff's pre-motion letter by 4 p.m. on Wednesday, September 9. The pre-motion conference scheduled before the Court on Tuesday, September 8, is adjourned, and it shall be rescheduled following the submission of all pre-motion letters. So Ordered (Signed by Judge Richard J. Sullivan on 9/2/09) (js) (Entered: 09/02/2009) |
| 09/02/2009 | | Set Deadlines/Hearings: Responses due by 9/9/2009 (js) (Entered: 09/02/2009) |
| 09/03/2009 | 119 | Delay Requested For Plaintiff Letter - E.G. For Pre-Motion Conference For Summary Judgment In Favor Of Plaintiff and Directly Move For Damages. Document filed by Peter W. Lindner. (rw) (Entered: 09/10/2009) |
| 09/03/2009 | 156 | MOTION for Extension of Time due to possible Commission of a felony by pro se office perhaps along with another unnamed persons in this case against plaintiff and a motion to investigate this and other possible felony. Document filed by Peter W. Lindner.(mbe) (Entered: 11/22/2009) |
| 09/04/2009 | 117 | ORDER, that by order dated September 2, 2009, Plaintiff was instructed to submit pre-motion letters (1) regarding his proposed motion for summary judgment and (2) responding to Defendants' letter regarding their proposed motion for summary judgment not later than 4 p.m. on September 3, 2009. As Plaintiff had previously been granted two extensions to submit these letters, the Court clearly stated that no further extensions would be granted. Plaintiff has still not submitted his own pre-motion letter or responded to Defendants' pre-motion letter. He has, however, submitted two other documents to the Court. At 4:52 p.m. on September 3, 2009, Plaintiff submitted a document captioned "MOTION FOR EXTENSION DUE TO POSSIBLE COMMISSION OF A FELONY BY PRO SE OFFICE PERHAPS ALONG WITH OTHER UNNAMED PERSONS IN THIS CASE AGAINST PLAINTIFF AND A MOTION TO INVESTIGATE THIS AND OTHER POSSIBLE FELONY." As far as can be gleaned from Plaintiff's letter, he alleges that he sent several documents to Chief Judge Preska via the Pro Se Office, and that some of these documents were returned to him unopened by the Pro Se Office. According to Plaintiff, this conduct violates federal law. When Plaintiff complained to the District Executive, Plaintiff further alleges, he heard clicks or beeps on his phone that he believes indicate his phone had been tapped. In addition to "an extension on the summary judgment" - actually an extension on Plaintiff's pre-motion letters relating to the parties' contemplated cross-motions for summary judgment - the letter seeks a wide variety of relief from this Court. Plaintiff asks that the Court require Defendants and their attorneys to respond to Plaintiff's allegations, that the Court formally seek the assistance of the FBI or the United States Attorney, that the Court ensure the cooperation of all courthouse personnel, and that the Court arrange for an "expert on wiretapping" to determine the cause of the clicks and beeps that he is hearing on his phone. Plaintiff requests are DENIED. On September 4, 2009, Plaintiff submitted another letter, captioned "REPLY TO DEFENDANTS RESPONSE TO PLAINTIFF MOTION TO SANCTION DEFENDANTS FOR WILLFUL VIOLATION OF AN ORDER CENTRAL TO THIS CASE AND REQUEST FOR FULLY BRIEFED HEARING IN OPEN COURT." Here, Plaintiff requests a fully-briefed hearing regarding Defendants' counsel's September 1, 2009, e-mail to Plaintiff, in violation of the Court's August 7, 2009, order. By order dated September 2, 2009, the Court denied Plaintiff's request for sanctions; accordingly, Plaintiff's current request for a hearing is also DENIED. Plaintiff's request that the court hold a hearing on previously resolved discovery disputes is also DENIED. Finally, Plaintiff's request that the Court certify issues to the United States Court of Appeals for the Second Circuit is DENIED, as Plaintiff has not pointed to "a controlling issue of law or fact" such that "an immediate appeal from the order may materially advance the ultimate termination of the litigation." See 28 U.S.C. 1292(b). In light of Plaintiff's repeated failure to comply with the Court's orders to submit pre-motion letters, the Court concludes that a pre-motion conference would be futile. Instead, IT IS HEREBY ORDERED that Defendants shall file their motion for summary judgment by Monday, October 5, Plaintiff shall respond by Monday, October 19, and Defendants shall reply by Monday, October 26. Plaintiff is advised that should he fail to respond to Defendants' motion for summary judgment in accordance with Rule 56(e)(2) of the Federal Rules of Civil Procedure, the Court will accept as true all material facts that are supported by Defendants' evidence. See <i>Champion v. Artuz</i> , 76 F.3d 483, 486 (2d Cir. 1996). Thus, Plaintiff must submit evidence - by affidavit or otherwise - showing a genuine issue of material fact for trial. Should Plaintiff fail to do so, summary judgment may be entered for the Defendants despite his failure to respond. Plaintiff is further advised that his continued failure to comply with Court orders may result in dismissal of this action under Federal Rule of Civil Procedure 41(b). (Signed by Judge Richard J. Sullivan on 9/4/09) (pl) Modified on 9/8/2009 (pl). (a copy of this Order was e-mailed). (Entered: 09/08/2009) |
| 09/04/2009 | 158 | REPLY to defendants response to plaintiff motion to sanction defendants for willful violation of an order central to this case and request for fully briefed hearing in open court. Document filed by Peter W. Lindner. (mbe) (Entered: 11/22/2009) |
| 09/15/2009 | 120 | ORDER terminating 118 Motion for Sanctions. The Clerk of the Court is respectfully directed to terminate the motion docketed as number 118, as it was denied by the Court's order dated 8/11/09. (Signed by Judge Richard J. Sullivan on 9/15/09) Copies E-Mailed By Chambers.(tro) (Entered: 09/16/2009) |
| 09/18/2009 | 121 | MEMORANDUM AND ORDER denying 109 Motion to Compel. I hereby deny Plaintiff's 8/14/09 Motion to Compel Depositions by Named Defendants (Document #109). My reasons are essentially the reasons set forth in Defendants' 8/24/09 Response (Document #111). On September 17, 2009, I received from Plaintiff a faxed affidavit, and I annex a copy. It is labeled as a Joint Letter to Magistrate Judge for Investigation. However, Plaintiff makes clear that this is not a joint letter, but rather an affidavit stating only his position. In this affidavit at paragraphs 5-6 Plaintiff requests an order directing the U.S. Marshal Service to preserve any videotapes made concerning Plaintiff's visit to our Courthouse on September 4, 2009. The affidavit also complains that persons at the Pro Se Office refused to submit his documents to Chief Judge Preska, and he requests me to order an investigation. I find that all of the requests in this affidavit are frivolous, and I deny them. I believe there are no longer any motions or requests pending before me in this case. (Signed by Magistrate Judge Douglas F. Eaton on 9/17/09) Copies Mailed By Chambers. (tro) (Entered: 09/18/2009) |
| 09/18/2009 | 122 | ORDER: that Plaintiff shall make no motions and shall submit no documents to the Pro Se Office without first obtaining written permission from this Court. Any request to file a motion or submit documents shall state the relief that would be requested and the basis for the proposed request. IT IS FURTHER ORDERED that all communications sent by Plaintiff to the Court, including the requests described above, shall not exceed 200 words. Plaintiff is reminded that it is squarely within the power of a district court to dismiss an action for failure to comply with the Court's orders. Indeed, Plaintiff's prior noncompliance with previous orders have already provided sufficient grounds to dismiss this action. Thus, should Plaintiff violate this order by sending any unauthorized communications, this action will be dismissed with prejudice. SO ORDERED. (Signed by Judge Richard J. Sullivan on 9/18/2009) (tve) Modified on 9/18/2009 (tve). Copies Mailed By Chambers. (Entered: 09/18/2009) |
| 09/26/2009 | 157 | MOTION request to file a motion or question to pro se office as required by USDJ Sullivan. Document filed by Peter W. Lindner.(mbe) (Entered: 11/22/2009) |
| 09/28/2009 | 123 | ORDER: By order dated September 18, 2009, Plaintiff was instructed to file no motions and to submit no documents to the Pro Se Office without first seeking permission from this Court. The Court is now in receipt of a letter from Plaintiff dated September 26, 2009, requesting permission to file documents and speak to courthouse employees, both in the above-captioned action and in other matters. With regard to actions other than the above-captioned action, the Court's order of September 18, 2009, does not apply, and Plaintiff may proceed consistent with applicable law and whatever orders, if any, exist in those cases. With regard to the above-captioned action, the Court's order of September 18, 2009, does not limit Plaintiff's freedom to "[c]ommunicate to the US Marshal," "[w]rite, speak, and visit the SDNY Clerk's Office," or "[c]ommunicate with Congress, the FBI, the US Attorney, [and] the media." Plaintiff's request to file an interlocutory appeal is DENIED, however, as Plaintiff has not pointed to "a controlling issue of law or fact" such that "an immediate appeal from the order may materially advance the ultimate termination of the litigation." See 28 U.S.C. 1292(b). (Signed by Judge Richard J. Sullivan on 9/28/09) Copies E-Mailed By Chambers. (tro) (Entered: 09/29/2009) |

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| 10/02/2009 | 153 | MOTION to get Court Order to preserve SDNY tapes for a limited 3-hour window. Document filed by Peter W. Lindner.(mbe) (Entered: 11/22/2009) |
| 10/05/2009 | 124 | RULE 56.1 STATEMENT. Document filed by John Doe, Robert Vanderheyden, Heather Christo Higgins, International Business Machines Corporation, John Doe. (mbe) (Entered: 10/06/2009) |
| 10/05/2009 | 125 | MEMORANDUM OF LAW in Support re: 124 Rule 56.1 Statement. Document filed by John Doe, Robert Vanderheyden, Heather Christo Higgins, International Business Machines Corporation, John Doe. (mbe) (Entered: 10/06/2009) |
| 10/05/2009 | 126 | NOTICE of Pro Se Litigant who Opposes a motion for Summary Judgment. Document filed by John Doe, Robert Vanderheyden, Heather Christo Higgins, International Business Machines Corporation, John Doe. (mbe) (Entered: 10/06/2009) |
| 10/05/2009 | 127 | MOTION for Summary Judgment pursuant to Rule 56 of the FRCP. Document filed by Robert Vanderheyden, Heather Christo Higgins, International Business Machines Corporation.(mro) (Entered: 10/07/2009) |
| 10/05/2009 | 128 | AFFIDAVIT of Kevin G. Lauri in Support re: 127 MOTION for Summary Judgment. Document filed by Robert Vanderheyden, Heather Christo Higgins, International Business Machines Corporation. (mro) (Entered: 10/07/2009) |
| 10/05/2009 | 129 | CERTIFICATE OF SERVICE of Notice for Summary Judgment, Memorandum of Law in Support of Defendants' Motion for Summary Judgment, Notice to Pro Se Litigant who Opposes a Motion for Summary Judgment, Local Rule 56.1 of Undisputed Material Facts and Affidavit of Kevin G. Lauri with attached exhibits served on Peter W. Lindner via hand delivery on 10/5/2009. Service was accepted by Plaintiff. Document filed by John Doe, Robert Vanderheyden, Heather Christo Higgins, International Business Machines Corporation, John Doe. (mbe) (Entered: 10/07/2009) |
| 10/07/2009 | 130 | ORDER TO SHOW CAUSE filed by International Business Machines Corporation. Plaintiff shall show cause as to why he should not be sanctioned under 18 U.S.C. § 401 for accusing the Court of being corrupt and accepting bribes, in direct contravention of the Court's prior order. Plaintiff shall submit a letter to the Court no later than Wednesday, October 14, at 5:00 p.m. (Signed by Judge Richard J. Sullivan on 10/6/2009) (jmi) (Entered: 10/07/2009) |
| 10/07/2009 | 154 | MOTION to Speak Freely. Document filed by Peter W. Lindner.(mbe) (Entered: 11/22/2009) |
| 10/08/2009 | 131 | ORDER: The October 7 letter first requests that the Court vacate its order of September 18, 2009, limiting Plaintiff's communications to the Court to 200 words. This limitation was imposed "in light of Plaintiff's repeated and ongoing abuse of the litigation process." Insofar as Plaintiff is requesting that the order be vacated in all respects, the request is denied. Plaintiff is, however, granted permission to write more than 200 words of explanation as to why he should not be sanctioned for his October 2, 2009, letter. Plaintiff shall submit his written explanation to the Court no later than October 19, 2009. The letter also implies that because Plaintiff has submitted his own motion for summary judgment, he is not obligated to respond to Defendant's pending motion for summary judgment. Plaintiff is instructed that, as explained in the Court's order of August 26, 2009, his motion for summary judgment was improperly filed; it is not now before the Court. Should Plaintiff fail to properly respond to Defendants' motion by October 19, 2009, the Court will accept as true all material facts that are supported by Defendants' evidence. See <i>Champion v. Artuz</i> , 76 F.3d 483, 486 (2d Cir. 1996). Thus, Plaintiff must submit evidence - by affidavit or otherwise - showing a genuine issue of material fact for trial. Should Plaintiff fail to do so, summary judgment may be entered for the Defendants. (Signed by Judge Richard J. Sullivan on 10/8/2009) Copies Mailed By Chambers.(jpo) (Entered: 10/09/2009) |
| 10/08/2009 | 152 | APPLICATION for the Court to Request Counsel. Document filed by Peter W. Lindner.(mbe) (Entered: 11/22/2009) |
| 10/09/2009 | 132 | ORDER: The Court is in receipt of a letter from Plaintiff requesting that the Court appoint a federal defender to represent him. Although the Court has ordered Plaintiff to show cause why he should not be sanctioned for violating the Court's prior orders, the Court is not currently contemplating ordering the incarceration of Plaintiff. He thus does not have a right to a appointed counsel, and the request is denied. As has been the case thought this litigation, however, Plaintiff has the right to retain counsel at his own expense. (Signed by Judge Richard J. Sullivan on 10/9/09) Copies E-mailed By Chambers. (tro) (Entered: 10/13/2009) |
| 10/09/2009 | 155 | MOTION to re-file the Summary Judgment in favor of plaintiff and compose joint letter on critical discovery dispute tied to summary judgment. Document filed by Peter W. Lindner.(mbe) (Entered: 11/22/2009) |
| 10/13/2009 | 133 | ORDER: Plaintiff has now submitted a letter dated October 9, 2009, requesting that his motion for summary judgment be accepted as properly filed or that the Court grant Plaintiff permission to re-file the motion. In light of Plaintiff's repeated violation of the Court's scheduling Orders, the request is DENIED. Plaintiff remains bound, however, to respond to Defendants' properly-filed motion by October 19, 2009. Plaintiff is advised that, if his opposition to Defendants' motion shows that there is no genuine issue of material fact, and that Plaintiff is entitled to judgment as a matter of law, the Court retains discretion to award summary judgment in his favor, despite his failure to properly file a motion. See <i>Local 33, Int'l Hod Carriers Bldg. & Common Laborers' Union of Am. v. Mason Tenders Dist. Council of Greater NY</i> , 291 F.2d 496, 505 (2d Cir. 1961). Plaintiff is thus strongly encouraged to focus his efforts on preparing his October 19 submission, rather than submitting numerous individual submissions to the Court between now and that date. (Signed by Judge Richard J. Sullivan on 10/13/09) Copies E-mailed By Chambers. (tro) (Entered: 10/13/2009) |
| 10/14/2009 | 151 | AFFIDAVIT of Peter Lindner re: 150 MOTION for Extension of Time. Document filed by Peter W. Lindner. (mbe) (Entered: 11/22/2009) |
| 10/16/2009 | 134 | ORDER: Plaintiff is granted an extension until October 26, 2009, to respond to both Defendants' motion for summary judgment and the Court's Order to show cause. Defendants' time to reply is accordingly extended until November 2, 2009. Plaintiff is advised that the Court will grant no further extensions beyond October 26, 2009. Plaintiff's failure to properly respond to the Court's Order to show cause and Defendants' motion for summary judgment will result in the Court's accepting as true all material facts that are supported by Defendants' evidence, and thus will likely result in the entry of summary judgment for Defendants. See <i>Champion v. Artuz</i> , 76 F.3d 483, 486 (2d Cir. 1996). It may also result in the entry of sanctions against Plaintiff. (Signed by Judge Richard J. Sullivan on 10/15/2009) Copies Mailed By Chambers.(tve) (Entered: 10/16/2009) |
| 10/26/2009 | 150 | MOTION for Extension of Time. Document filed by Peter W. Lindner.(mbe) (Entered: 11/22/2009) |
| 10/27/2009 | 135 | ORDER: The Court is in receipt of a letter from Plaintiff dated October 26, 2009, explaining that he is experiencing computer problems and requesting an extension of time to (1) respond to Defendants' motion for summary judgment, and (2) respond to the Court's Order to show cause why he should not be sanctioned for his letter of October 2, 2009, which accused the undersigned of receiving bribes from Defendant IBM. Both submissions were due October 26, 2009. Plaintiff now requests an extension until "two (Plus) weeks after November 19, 2009," explaining that his new computer will not be delivered until that date. Plaintiff's request for an extension of nearly a month is DENIED. Rather, Plaintiff is granted one final extension, until November 9, 2009, to respond to both (1) Defendants' summary judgment motion and (2) the Court's order to show cause why he should not be sanctioned. Plaintiff is instructed that he is free to write his submissions by hand; they need not be typewritten. Plaintiff's failure to comply with the deadline stated above will result in the Court's accepting as true all material facts that are supported by Defendants' evidence, and thus may result in the entry of summary judgment for Defendants. See <i>Champion v. Artuz</i> , 76 F.3d 483, 486 (2d Cir. 1996). It may also result in the entry of sanctions against Plaintiff. Show Cause Response due by 11/9/2009., Set Deadlines/Hearing as to 127 MOTION for Summary Judgment. : (Responses due by 11/9/2009) (Signed by Judge Richard J. Sullivan on 10/27/09) Copies E-Mailed By Chambers. (tro) (Entered: 10/28/2009) |
| 11/05/2009 | 136 | ORDER: Plaintiff is reminded that, pursuant to the Court's Order of October 27, 2009, both (1) his submission in response to the Court's Order to show cause and (2) his response to Defendant's summary judgment motion are due no later than November 9, 2009. Plaintiff's failure to comply with the deadline stated above will result in the Court's accepting as true all material facts that are supported by Defendants' evidence, and thus may result in the entry of summary judgment for Defendants. See <i>Champion v. Artuz</i> , 76 F.3d 483, 486 (2d Cir. 1996). It may also result in the entry of sanctions against Plaintiff. So Ordered (Signed by Judge Richard J. Sullivan on 11/5/09) (js) (Entered: 11/05/2009) |

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| 11/05/2009 | 145 | Plaintiff Notification imminent Representation by an attorney for sole issue of contempt order. Document filed by Peter W. Lindner. (mbe) Modified on 11/22/2009 (mbe). (Entered: 11/22/2009) |
| 11/06/2009 | 137 | ORDER, that the Court is in receipt of a letter from Scott P. Benjamin, Esq., informing the Court that he has been retained by Plaintiff solely for the purpose of showing cause why Plaintiff should not be sanctioned for his letter of October 2, 2009, in which he suggested that the undersigned be impeached for corruption and for receiving bribes from Defendant IBM. The letter requests that Plaintiffs deadline for showing cause be extended until November 18, 2009. The request is GRANTED. Plaintiff IS HEREBY ORDERED to respond to the Court's Order to show cause no later than November 18, 2009. Mr. Benjamin shall file a notice of appearance through ECF forthwith. The Court is also in receipt of a letter from Plaintiff dated November 6, 2009, requesting an extension of time until December 1, 2009, to respond to Defendants' motion for summary judgment. The letter indicates that Defendants "have no objection to the extension." Defendants have informed the Court by letter dated November 6, 2009, that they did not consent to Plaintiffs requested adjournment. Rather, Defendants indicate that Plaintiff would interpret their failure to provide such a requested adjournment. Plaintiff has previously been granted two extensions, and by Order dated October 27, 2009, Plaintiff was informed that he would be granted no further extensions. Accordingly, his request for an additional extension is DENIED. Plaintiffs failure to comply with the November 9, 2009, deadline will result in the Court's accepting as true all material facts that are supported by Defendants' evidence, and thus may result in the entry of summary judgment for Defendants. Additional relief as set forth in this Order. (Signed by Judge Richard J. Sullivan on 11/6/09) (pl) Modified on 11/9/2009 (pl). Copies e-mailed by chambers. (Entered: 11/09/2009) |
| 11/06/2009 | 146 | RESPONSE to Defendants' Intent to Deceive the Court. Document filed by Peter W. Lindner. (mbe) (Entered: 11/22/2009) |
| 11/09/2009 | 144 | RESPONSE re: 127 MOTION for Summary Judgment. (including Summary Judgment to go to damages as ordered by USDJ) Document filed by Peter W. Lindner. (mbe) (Entered: 11/22/2009) |
| 11/09/2009 | 148 | MEMORANDUM OF LAW in Support re: 144 RESPONSE re: 127 MOTION for Summary Judgment. (including Summary Judgment to go to damages as ordered by USDJ). Document filed by Peter W. Lindner. (mbe) (Entered: 11/22/2009) |
| 11/09/2009 | 149 | AFFIDAVIT of Response to defendant Motion for Summary Judgment. Document filed by Peter W. Lindner. (mbe) (Entered: 11/22/2009) |
| 11/10/2009 | 138 | ORDER: Accordingly, IT IS HEREBY ORDERED that Plaintiff may supplement his November 9, 2009, submission with any relevant documents he has been able to recover from his old computer in a submission to be filed by December 1, 2009. If Defendants wish to file a reply brief, they shall do so no later than December 8, 2009. The Court will thereafter treat the motion as fully submitted. As Plaintiff first complained of computer problems by letter dated August 31, 2009, the Court expects that whatever recovery of files is possible shall be completed in time for Plaintiff to comply with the December 1, 2009, deadline. Accordingly, no extensions will be granted from the deadlines stated above. (Signed by Judge Richard J. Sullivan on 11/10/2009) Copies E-Mailed By Chambers (jfe) (Entered: 11/10/2009) |
| 11/10/2009 | 147 | Plaintiff request in Response to Motion for Summary Judgment. Document filed by Peter W. Lindner. (mbe) (Entered: 11/22/2009) |
| 11/13/2009 | 139 | ORDER The Court is in receipt of a letter from Defendant requesting that the deadline for its reply brief be extended from December 8, 2009, until December 15, 2009. IT IS SO ORDERED. (Replies due by 12/15/2009.) (Signed by Judge Richard J. Sullivan on 11/12/2009) (jmu) (Entered: 11/13/2009) |
| 11/13/2009 | 140 | ORDER that the Court is in receipt of a letter from plaintiff requesting a one week extension on his his supplemental filing in opposition to defendant's summary judgment motion, currently due 12/1/09. As the letter states no compelling reasons to grant an extension and plaintiff has previously been granted numerous extensions, the request is denied. (Signed by Judge Richard J. Sullivan on 11/13/09) (dle) (Entered: 11/13/2009) |
| 11/16/2009 | 141 | ORDER. By Order dated November 13, 2009, the Court denied Plaintiffs request for a one-week extension on his supplemental filing in opposition to Defendants' motion for summary judgment, as it failed to state a compelling reason to grant such an extension, and Plaintiff had previously been granted numerous extensions. The Court is now in receipt of a letter from Plaintiff dated November 13, 2009, which is attached to this Order and which again requests such relief. The Court reiterates that in light of the numerous extensions Plaintiff has previously received, no further extensions from the deadlines now in place shall be granted. Accordingly, the request is DENIED. (Signed by Judge Richard J. Sullivan on 11/16/09); copy e-mailed by Chambers (djic) (Entered: 11/17/2009) |
| 11/18/2009 | 142 | NOTICE OF APPEARANCE by Scott P. Benjamin on behalf of Peter W. Lindner. (mbe) (Entered: 11/19/2009) |
| 11/18/2009 | 143 | LETTER AND MEMORANDUM TO THE COURT SHOWING CAUSE WHY PLAINTIFF SHOULD NOT BE SANCTIONED UNDER 18 U.S.C.401. Document filed by Peter W. Lindner. (dle) (Entered: 11/19/2009) |
| 11/20/2009 | 160 | ORDER that the Court has been exceedingly clear in numerous prior Orders that no extensions would be granted beyond the 12/1/09, deadline. Accordingly, the request is denied. If plaintiff wishes to submit a letter from his physician explaining the operation and its likely effect on plaintiff's ability to comply with the Court's deadline, the court will reconsider the request. Plaintiff also requests leave to file a sur-reply memorandum in opposition to defendants' summary judgment motion. The request is denied as premature; plaintiff may renew his request to file a sur-reply memorandum once defendants have filed their reply memorandum. Plaintiff is advised, however, that the Court is unlikely to grant such leave absent a compelling reason to do so. (Signed by Judge Richard J. Sullivan on 11/20/09) (dle) (Entered: 11/23/2009) |
| 11/24/2009 | 161 | ORDER By Order dated November 20, 2009, the Court denied Plaintiffs request for an extension of the deadline for his supplemental filing in opposition to Defendants' motion for summary judgment. The Order informed Plaintiff that the Court would reconsider his request if he provided a letter from his physician indicating that an extension would be medically appropriate. The Court is now receipt of two letters from Plaintiff, each dated November 23, 2009. The letter marked as Exhibit A contains generic information from a web page; the letter marked as Exhibit B states that Plaintiffs physician is unwilling to write a letter to the Court. Because neither letter contains the information contemplated by the Court's Order of November 20, 2009, Plaintiffs renewed request is DENIED and his supplemental filing remains due December 1, 2009. (Signed by Judge Richard J. Sullivan on 11/23/2009) Copies E-Mailed By Chambers (jmu) Modified on 11/24/2009 (jmu). (Entered: 11/24/2009) |
| 11/30/2009 | 162 | ORDER: The Court, by Order dated November 20, 2009, informed Plaintiff that it would consider granting him an extension for medical reasons if he provided a letter from his physician. As Plaintiff still has not provided such a letter, the request is DENIED, and Plaintiffs supplemental filing remains due tomorrow, December 1, 2009. Plaintiffs request that the Court sanction Defendant IBM is also DENIED. (Signed by Judge Richard J. Sullivan on 11/30/2009) (jpo) (Entered: 11/30/2009) |
| 12/02/2009 | 163 | ORDER: The Court is in receipt of three documents sent by Plaintiff to the Court on December 1, 2009. The document attached to this Order as Exhibit A is a request for an additional extension of the deadline for his supplemental filing in opposition to Defendants' motion for summary judgment, which by Order dated November 10, 2009, the Court set at December 1, 2009. The document attached to this Order as Exhibit B is an affidavit in support of that request. Finally, the document attached as Exhibit C is a duplicate copy of the final page of Exhibit B that has been signed and notarized. Plaintiffs request for an additional extension of the deadline is DENIED. Insofar as Plaintiff complains of computer problems, he is directed to the Court's Order of November 10, 2009, where the Court indicated that because Plaintiff had been aware of his computer problems since at least August 31, 2009, the Court was confident that whatever recovery of his files was possible would be completed in time for him to comply with the December 1, 2009 deadline, and thus that no further extensions would be granted on account of computer problems. Insofar as Plaintiff complains of medical problems, he is directed to the Court's Order of November 20, 2009, where the Court indicated that it would only consider granting an extension on medical grounds if Plaintiff provided a letter from his physician indicating that such an extension was medically necessary. Plaintiff has not provided such a letter, and as far as the Court can tell from the materials that Plaintiff has submitted to the Court, his physician affirmatively does not believe that Plaintiff's judgment was |

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| | | impaired. Particularly in light of the numerous extensions that Plaintiff has previously been granted, the Court sees no basis for granting Plaintiff any further extension. Defendants are thus advised that to the extent they still believe a reply brief would aid the Court's consideration of their motion, they shall submit the brief, as previously ordered, by December 15, 2009. Alternatively, to the extent that Defendants are willing to rest on the existing record, they shall notify the Court by December 4, 2009. (Signed by Judge Richard J. Sullivan on 12/1/09) Copies E-Mailed By Chambers. (tro) (Entered: 12/02/2009) |
| 12/02/2009 | 164 | ORDER: The Court is in receipt of a letter from Plaintiff dated December 2, 2009, requesting leave to file a sur-reply memorandum in opposition to Defendants' motion for summary judgment. Plaintiff's request is DENIED. The motion is now fully submitted, and the Court intends to resolve the motion on the existing record. (Signed by Judge Richard J. Sullivan on 12/2/2009) Copies Mailed By Chambers.(tve) (Entered: 12/03/2009) |
| 12/03/2009 | 165 | ORDER: The motion is now fully submitted, and the Court intends to resolve the motion on the existing record. So Ordered (Signed by Judge Richard J. Sullivan on 12/3/09) (js) (Entered: 12/04/2009) |
| 12/04/2009 | 166 | ORDER: The request set forth in this order is denied. Plaintiff's deadline of December 1, 2009, was set by Order dated November 10, 2009. Of the three weeks that passed between those dates, Plaintiff has shown - at most - that he was unexpectedly unable to work on two of those days. Once again, the Court informs Plaintiff that the motion is now fully submitted, and no additional filings will be accepted. (Signed by Judge Richard J. Sullivan on 12/4/09) (js) (Entered: 12/04/2009) |
| 12/08/2009 | 167 | MANDATE of USCA (Certified Copy) as to 104 Notice of Interlocutory Appeal, filed by Peter W. Lindner USCA Case Number 09-3480-cv. Appellant, pro se, moves to proceed in forma pauperis. This Court has determined sua sponte that it lacks jurisdiction over this appeal because a final order has not been issued by the district court as contemplated by 28 U.S.C. § 1291. See <i>Coopers & Lybrand v. Livesay</i> , 437 U.S. 463, 467 (1978); see also <i>New York State Nat'l Org. For Women v. Terry</i> , 886 F.2d 1339, 1350 (2d Cir. 1989) (noting that a discovery order is not appealable prior to the entry of a final judgment). Upon due consideration, it is hereby ORDERED that the appeal is DISMISSED. It is further ORDERED that Appellant's motion is DENIED as moot. Catherine O'Hagan Wolfe, Clerk USCA. Issued As Mandate: 12/3/2009. (nd) (Entered: 12/08/2009) |
| 12/08/2009 | | Transmission of USCA Mandate/Order to the District Judge re: 167 USCA Mandate,... (nd) (Entered: 12/08/2009) |
| 01/07/2010 | | CASE NO LONGER REFERRED to Magistrate Judge Douglas F. Eaton. I hereby close the above Order of Reference for magistrate judge statistical purposes. This case remains open. Reason: Judge Sullivan's 12/4/09 order noted that defendants' motion for summary judgment "is now fully submitted," and that he will accept no additional filings. (mro) (Entered: 01/11/2010) |
| 01/21/2010 | 168 | MEMORANDUM AND ORDER, that because Plaintiff has failed to submit any evidence showing a genuine issue of material fact that is appropriate for trial, Defendants' motion for summary judgment is granted in its entirety. In light of the fact that the merits of this case have now been resolved, the Court exercises its discretion not to sanction Plaintiff for his letter of October 2, 2009. The Clerk of the Court is respectfully directed to close this case. (Signed by Judge Richard J. Sullivan on 1/21/10) copies e-mailed by Chambers.(pl) (Entered: 01/21/2010) |
| 01/21/2010 | | Transmission to Judgments and Orders Clerk. Transmitted re: 168 Order,... to the Judgments and Orders Clerk. (pl) (Entered: 01/21/2010) |
| 01/29/2010 | 169 | CLERK'S JUDGMENT That for the reasons stated in the Court's Memorandum and Order dated January 21, 2010, defendants' motion for summary judgment is granted in its entirety; the Court exercises its discretion not to sanction Plaintiff for his letter of October 2, 2009; accordingly, the case is closed. (Signed by J. Michael McMahon, clerk on 1/29/10) (Attachments: # 1 notice of right to appeal)(ml) (Entered: 01/29/2010) |
| 02/02/2010 | 172 | NOTICE OF APPEAL from 168 Order, 169 Clerk's Judgment. Document filed by Peter W. Lindner. Copies mailed to attorney(s) of record: Jackson Lewis LLP; and, Venable LLP. (tp) (Entered: 02/17/2010) |
| 02/02/2010 | | Appeal Remark as to 172 Notice of Appeal filed by Peter W. Lindner. \$455.00 APPEAL FEE DUE. IFP DENIED 2/10/10. (tp) (Entered: 02/17/2010) |
| 02/10/2010 | 170 | ORDER: On 1/21/2010, this court issued a Memorandum and Order granting Defendants' motion for summary judgment and closing this case. Plaintiff now moves, pursuant to Federal Rule of Appellate Procedure 24(a)(1), for leave to appeal in forma pauperis. The Court has issued an Order denying Plaintiff such leave. Because the Order includes confidential financial information regarding Plaintiff, it has been filed under seal. (Signed by Judge Richard J. Sullivan on 2/9/2010) Copies E-Mailed By Chambers. (tro) (Entered: 02/11/2010) |
| 02/17/2010 | 171 | SEALED DOCUMENT placed in vault.(nm) (Entered: 02/17/2010) |
| 02/17/2010 | | Transmission of Notice of Appeal and Certified Copy of Docket Sheet to US Court of Appeals re: 172 Notice of Appeal. (tp) (Entered: 02/17/2010) |
| 02/17/2010 | | Transmission of Notice of Appeal to the District Judge re: 172 Notice of Appeal. (tp) (Entered: 02/17/2010) |